IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Civil Revision No. 08 /2005 **Single Bench**

REVISIONIST (DEFENDANT) — Sumit Sharma, S/o. Krishna Gopal Sharma, Aged about 35 years, R/o. Bajrang Hotel, Bus Stand, Rajnandgaon (C.G.).

Rt. No. 193/05 Presented by Shri Amrit Raj Urmalia dated 13.1.05

VERSUS

RESPONDENT (PLAINTIFF) — Shankar Singh, S/o. Late Kamta Singh, Aged about 37 years, R/o. Gaurinagar, Near Talab, Masjid Gali, Rajnandgaon (C.G.).

CIVIL REVISION UNDER SECTION 115 OF THE CODE OF CIVIL PROCEDURE, 1908.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(20)

आदेश पत्रक

मामला क्रमांक CR 8 सन् 2005

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07/03/2005

Shri Anup Mazumdar counsel for the applicant.

The applicant/defendant has preferred this revision against the judgment and decree dated 7.1.2005 passed by District Judge, Rajnandgaon in Civil Appeal No. 2-B/2004 thereby confirming the judgment and decree dated 10.8.2004 passed by Civil Judge Class II Rajnandgaon in Civil Suit No. 19-B/2003 by which the suit of the non-applicant/plaintiff was decreed for a sum of Rs. 2,158/- along with interest at the rate of 6 per cent per annum from 5.12.2002.

Learned counsel for the applicant submits that the impugned decree has been passed by both the Courts below without considering the defence of the applicant that the plaintiff was not engaged in milk vending as he was a Conductor by profession. He further submitted that the decree under challenge is based on some unauthenticated entries in the diary allegedly maintained by the plaintiff which is not admissible in evidence as the same did not bear the signature of the applicant/defendant. According to the counsel for the applicant the impugned decree is based on the presumption that the applicant did not reply to the legal notice served on him by the plaintiff demanding the money for the milk supplied. Relying on the decision of the Supreme Court in the matter of Vinod Kumar Arora Vs. Smt. Surjit Kaur reported in AIR

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(131)

आदेश पत्रक

मामला क्रमांक C.R...8..... **सन्** 200 8

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1987 SC 2179 and in the matter of Keshavlal Jethalal Shah Vs. Mohanlal Bhagwandas and another reported in AIR 1968 SC 1336, submits that the instant revision is maintainable under section 115 of the Code of Civil Procedure and the judgment and decree passed by the appellate Court confirming the judgment and decree passed by the trial Court is revisable.

I have heard counsel for the applicant and gone through the judgment and decree passed by both the Courts below. Both the Courts below after considering the material available on record and the evidence adduced by the parties have arrived at the conclusion by recording a concurrent finding of fact that the non-applicant/plaintiff supplied the milk to the applicant/defendant and the same was also entered in the diary maintained by the plaintiff in the course of business. In the said diary maintained by the plaintiff, the payment made by the applicant from time to time has also been recorded and a detailed legal notice was also served upon the defendant/applicant calling upon him to pay price of the milk supplied to him which was not even replied to by the applicant and thus the suit of the plaintiff has been decreed on this premise. The Courts below further recorded a finding that but for minor discrepancies in the statement of the plaintiff regarding the amount payable, there is no other discrepancy in the statement of the plaintiff and thus decreed the suit.

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(32)

आदेश पत्रक

मामला क्रमांक C.R. 8 सन् 2005

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Scope of interference by the High Court exercising the jurisdiction under section 115 of the CPC is very limited and in the instant case I do not find that the Courts below have committed any illegality or material irregularity while exercising the jurisdiction and thus the impugned judgment and decree does not call for any interference by this Court. Accordingly, the revision petition has no merit and the same is dismissed. Consequently, MCP No. 116/2005 and IA No. 209/2005 stand disposed of Sd/- Dhirendra Mishra Judge	